Supreme Court, U.S.
FILED
MAR 21 1997
CLERK

No. 96-1321

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1996

BROWN UNIVERSITY, *et al.*,
Petitioners,

v.

AMY COHEN, *et al.*,
Respondents.

Petition for a Writ of Certiorari to the United States Court of Appeals for the First Circuit

---

AMICI CURIAE IN SUPPORT OF BROWN UNIVERSITY'S PETITION FOR A WRIT OF CERTIORARI

CHRISTOPHER CIPOLETTI
Counsel for Amici Curiae USA Wrestling, Inc., United States Swimming, Inc. and United States Water Polo, Inc.
HOLME ROBERTS & OWEN LLP
90 South Cascade Avenue, Suite 1300
Colorado Springs, CO 80903
(719) 473-3800

---

23 pp

No. 96-1321

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1996

BROWN UNIVERSITY, *et al.*,
Petitioners,

v.

AMY COHEN, *et al.*,
Respondents.

Petition for a Writ of Certiorari to the United States Court of Appeals for the First Circuit

---

AMICI CURIAE IN SUPPORT OF BROWN UNIVERSITY'S PETITION FOR A WRIT OF CERTIORARI

CHRISTOPHER CIPOLETTI
Counsel for Amici Curiae USA Wrestling, Inc., United States Swimming, Inc. and United States Water Polo, Inc.
HOLME ROBERTS & OWEN LLP
90 South Cascade Avenue, Suite 1300
Colorado Springs, CO 80903
(719) 473-3800

QUESTIONS PRESENTED

Amici curiae USA Wrestling, Inc. and United States Swimming, Inc. incorporate the questions presented by Brown University in its Petition for Certiorari.

PARTIES TO THE PROCEEDING

The amici curiae to this proceeding are United States of America Wrestling Association, Inc., an Oklahoma nonprofit corporation, recognized by the United States Olympic Committee ("USOC") as the national governing body for the sport of wrestling, United States Swimming, Inc., an Ohio not-for-profit corporation, recognized by the USOC as the national governing body for the sport of swimming and United States Water Polo, a not-for-profit corporation, recognized by the USOC as the national governing body for the sport of water polo. As reflected by the attached letters, both Petitioners' counsel and Respondents' counsel have consented to the participation of these NGBs as amici curiae to this proceeding.

RULE 29.6 STATEMENT

Amici curiae, USA Wrestling, U.S. Swimming and U.S. Water Polo, are not-for-profit corporations. They have no parents or subsidiaries. However, each is a member of the USOC and of their respective international federations. Fédération Internationale de Lutte Amateur is the international federation for wrestling and Federation Internationale De Natation is the international federation for swimming and water polo. U.S. Swimming and U.S. Water Polo are also members of United States Aquatic Sports, Inc., an Ohio not-for-profit corporation.

TABLE OF CONTENTS

Page

QUESTIONS PRESENTED i

PARTIES TO THE PROCEEDING ii

RULE 29.6 STATEMENT iii

TABLE OF AUTHORITIES v

PETITION FOR A WRIT OF CERTIORARI 1

STATUTES AND CONSTITUTION PROVISIONS INVOLVED 1

STATEMENT OF THE CASE 1

INTEREST OF AMICI CURIAE 1

REASONS FOR GRANTING THE WRIT 2

CONCLUSION 12

TABLE OF AUTHORITIES

Page

CASES

Cohen v. Brown, 991 F.2d 888 (1st Cir. 1993) 7

Roberts v. Colorado State University, 998 F.2d 824 (10th Cir. 1993), *cert. denied*, ___ U.S. ___, 114 S.Ct. 580, 126 L.Ed. 2d 478 (1993) 6

STATUTES AND REGULATIONS

Amateur Sports Act of 1978, 36 U.S.C. § 371, *et seq.* ..... 1, 2, ... 3, 4, 5, 6, 9, 10, 11

Title IX of the Educational Amendments of 1972, 20 U.S.C. § 1681 ..... 2, 3, 5, 6, 7, 8, 9, 10, 11

PETITION FOR A WRIT OF CERTIORARI

Amici curiae United States of America Wrestling Association, Inc. ("USA Wrestling"), United States Swimming, Inc. ("U.S. Swimming") and United States Water Polo, Inc. ("U.S. Water Polo") hereby join in Brown University, et al.'s request of this Court to issue a writ of certiorari to review the decision of the United States Court of Appeals for the First Circuit in this case. USA Wrestling, U.S. Swimming and U.S. Water Polo incorporate, by reference, the provisions of Brown University's petition for certiorari with regard to the opinions below and grounds for jurisdiction.

STATUTES AND CONSTITUTION PROVISIONS INVOLVED

Amici curiae USA Wrestling, U.S. Swimming and U.S. Water Polo incorporate the reference to the statutes and provisions involved as identified by Brown University in its petition for certiorari. USA Wrestling, U.S. Swimming and U.S. Water Polo also believe that this case has impact on and concerns the Amateur Sports Act of 1978, 36 U.S.C. § 371, *et seq.* (specifically, 36 U.S.C. §§ 374, 375, 391, 392 and 393).

STATEMENT OF THE CASE

Amici curiae USA Wrestling, U.S. Swimming and U.S. Water Polo incorporate those applicable provisions of Brown University's statement of the case contained in its petition for certiorari.

INTEREST OF AMICI CURIAE

Amici curiae USA Wrestling, U.S. Swimming and U.S. Water Polo are each national governing bodies ("NGB") recognized by the USOC as the NGB for their particular sports. In that role, they have a duty to promote and advance the interests of their particular sports, to enhance amateur athletic competition and to find the best athletes for amateur competition in the Olympic Games and other protected

competitions identified by the Amateur Sports Act. As a part of their programs, numerous NGBs, including USA Wrestling, U.S. Swimming and U.S. Water Polo, utilize collegiate sports programs to identify elite athletes who have the abilities and/or capabilities of being Olympic contenders. Likewise, these NGBs benefit from the sports programs of colleges and universities as a part of the training regimen for those athletes who might be qualified to have the opportunity to participate or compete for a position on the United States Olympic Team or teams sent to participate in other protected competitions.

The First Circuit's decision in this matter has had an adverse impact on the ability of these NGBs to utilize the college and university programs to identify and train athletes for Olympic competition and other protected competition under the Amateur Sports Act. Specifically, because the First Circuit has imposed a statistical equity requirement for sports programs under Title IX, wrestling programs throughout the country have been eliminated in order to reach a statistical parity between men's and women's sports programs and the student body of the institution. Likewise, swimming programs have been eliminated to meet the parity as identified by the First Circuit in order to comply with the provisions of Title IX. Further, the First Circuit's decision adversely impacts an NGB's ability to develop interest and participation throughout the United States in the sport it represents as required by the Amateur Sports Act.

REASONS FOR GRANTING THE WRIT

In addition to those reasons identified by Brown University in its petition for certiorari, which these amici curiae acknowledge and incorporate herein, USA Wrestling, U.S. Swimming and U.S. Water Polo contend that the First Circuit's interpretation of Title IX adversely impacts their duties and responsibilities as identified in the Amateur Sports Act, 36 U.S.C. § 371, *et. seq.* Therefore, the First Circuit's decision may place two federal statutes, Title IX of the

Educational Amendments of 1972, 20 U.S.C. § 1681, and the Amateur Sports Act, in conflict by eliminating these NGBs' ability to carry out their duties and responsibilities as identified by the Amateur Sports Act.

The Amateur Sports Act provides for duties and responsibilities of NGBs.[1] 36 U.S.C. § 392 provides in pertinent part:

---

[1] Pursuant to 36 U.S.C. § 374, the objects and purposes of the USOC include that it shall:

> (1) establish national goals for amateur athletic activities and encourage the attainment of those goals;
>
> (2) coordinate and develop amateur athletic activity in the United States directly relating to international amateur athletic competition, so as to foster productive working relationships among sports-related organizations; . . .
>
> (4) obtain for the United States, either directly or by delegation to the appropriate national governing body, the most competent amateur representation possible in each competition and event of the Olympic Games and of the Pan-American Games;
>
> (5) promote and support amateur athletic activities involving the United States and foreign nations;
>
> (6) promote and encourage physical fitness and public participation in amateur athletic activities;
>
> (7) assist organizations and persons concerned with sports in the development of amateur athletic programs for amateur athletes; . . . .

The USOC is also to encourage and provide assistance for amateur athletic opportunities for women, disabled persons and racial and ethnic minorities. 36 U.S.C. § 374(12)(13)(14). The NGBs derive duties and responsibilities from the USOC.

(a) For the sport which it governs, a national governing body is under duty to --

(1) develop interest and participation throughout the United States and be responsible to the persons and amateur sports organizations it represents; . . .

(6) provide equitable support and encouragement for participation by women where separate programs for male and female athletes are conducted on a national basis; . . . .

36 U.S.C. § 393 provides for the authority of an NGB and states, in pertinent part:

For the sport which it governs, a national governing body is authorized to --

(1) represent the United States in the appropriate international sports federation;

(2) establish national goals and encourage the attainment of those goals;

(3) serve as the coordinating body for amateur athletic activities in the United States; . . .

(6) recommend to the Corporation [the USOC] individuals and teams to represent the United States in the Olympic Games and Pan-American Games; and

(7) designate individuals and teams to represent the United States in international amateur athletic competition (other than the Olympic Games and the Pan-American Games) and certify, in accordance with applicable international rules, the amateur eligibility of such individuals and teams.

Finally, 36 U.S.C. § 391 provides:

> (b) No amateur sports organization is eligible to be recognized or is eligible to continue to be recognized as a national governing body unless it -- . . .
>
> (6) provides an equal opportunity to amateur athletes; coaches, trainers, managers, administrators, and officials to participate in amateur athletic competition, without discrimination on the basis of race, color, religion, age, sex, or national origin, and with fair notice and opportunity for a hearing to any amateur athlete, coach, trainer, manager, administrator, or official before declaring such individual ineligible to participate; . . . .

The First Circuit's interpretation of Title IX and its requirements, *i.e.*, that the athletic programs of a college or university mirror, on a gender basis, the student body enrollment, adversely impacts and may effectively eliminate the NGB's ability to (1) utilize college and university programs as a mechanism to identify potential elite athletes and (2) utilize these programs as training grounds for athletes who have the ability to compete in protected competitions, including the Olympic Games. Through its interpretation, the First Circuit may very well have put Title IX in conflict with the provisions of 36 U.S.C. § 374(4), which requires the USOC to obtain, either directly or through delegation to the appropriate NGB, the most competent amateur representation possible in each competition and event in the Olympic Games and the Pan-American Games. Likewise, the First Circuit's interpretation of Title IX may require the NGBs, to the extent they are able to utilize college and university programs for identifying elite athletes and for training programs, to support or foster a discriminatory program which would provide preferences to one sex over the other. While the NGBs are to provide equal opportunities for men and women as well as racial and ethnic

minorities and disabled persons, they are not permitted, under the Amateur Sports Act, to favor one group to the detriment of another. The First Circuit's interpretation of Title IX forces the NGBs, to the extent they utilize college and university programs for the purposes described herein, to sanction or endorse a program which has or can have the effect of enhancing women's sports to the detriment of men's sports.

Similarly, the First Circuit's interpretation in this matter, as well as other interpretations by courts which have addressed the issue of Title IX compliance, adversely impacts and may effectively eliminate an NGB's ability to fulfill its duty as required under 36 U.S.C. § 392 (1) and (6) requiring the NGBs to develop interest and participation in sports throughout the United States and requiring that the NGBs achieve their duties and responsibilities without discrimination.

Through utilization of college and university programs, NGBs can fulfill this obligation and duty as required under the Amateur Sports Act. However, Title IX, as it has been interpreted and implemented in light of decisions such as that in the First Circuit in this case and in *Roberts v. Colorado State University*, 998 F.2d 824 (10th Cir. 1993), *cert. denied*, ___ U.S. ___, 114 S.Ct. 580, 126 L.Ed. 2d 478 (1993), infringes upon the NGB's ability to fulfill its obligations and duties. In *Roberts v. Colorado State University, supra,* at 830, the court stated:

> We recognize that in times of economic hardship, few schools will be able to satisfy Title IX's effective accommodation requirement by continuing to expand their women's athletics programs. Nonetheless, the ordinary meaning of the word "expansion" may not be twisted to find compliance under this prong when schools have increased the relative percentages of women participating in athletics by making cuts in both men's and women's sports programs. Financially

> strapped institutions may still comply with Title IX by cutting athletic programs such that men's and women's athletic participation rates become substantially proportionate to their representation in the undergraduate population.

Relying in part on the First Circuit's decision in *Cohen v. Brown*, 991 F.2d 888 (1st Cir. 1993), the Tenth Circuit has adopted the rationale that, particularly in times of economic hardship, colleges and universities can only comply with Title IX if they utilize the safe harbor. Such an interpretation mandates that (1) men's programs be eliminated to reach proportionality between the participation of men and women in athletics and the ratio of men to women in the student body; or (2) women's programs be added to reach a proportionality between participation of men and women in the athletics programs and men and women in the student body. Regardless of the alternative selected, the First Circuit's decision as well as the Tenth Circuit's interpretation would mandate that schools utilize the "safe harbor" to obtain Title IX compliance. This would effectively eliminate schools' usage of the other two prongs of the regulations interpreting Title IX compliance, *i.e.*, historical expansion of women's athletic programs or fully and effectively accommodating the interests of the under-represented gender.

Elimination of those provisions which allow Title IX compliance to be demonstrated through historical expansion of women's programs or through fully and effectively accommodating women's interests should not be accepted. This Court should accept Brown University's Petition for Certiorari to review the First Circuit's interpretation, which has been adopted and accepted by the vast majority of the court's considering this issue.

The First Circuit's interpretation, which effectively eliminates the ability to rely on historical expansion of women's athletic programs, penalizes colleges and universities for quickly responding to the mandates of Title IX to bring gender equity into their athletic

programs. Under the First Circuit's analysis, finding that Brown did not meet the historical expansion test, Brown would have been better off denying opportunities for women in the 1970's, when the women's programs were significantly increased and instead increasing women's programs on a single-sport basis every three to four years to show historical expansion of its programs. Likewise, the First Circuit's interpretation eliminates a college's or university's flexibility in dealing with the economic realities of its athletic programs.

The concept of historical expansion cannot be isolated so as to preclude the possibility of elimination of various women's sports at some future point if (1) interest in the sport declines to such an extent that the sport can no longer be justified at the college or university or (2) economic realities require that certain sports be eliminated. Historic expansion of a college's or university's athletics programs must be looked at from the time of implementation of Title IX on an overall basis as to what has occurred in the athletic programs of a particular college or university. The court must look at expansion as well as reduction of sports programs to determine whether historically the under-represented gender's sports program has been enhanced. If women's programs have been added over a period of time and then all men's and women's sports programs have been cut, but men's sports programs have been cut more drastically than women's sports programs, such an overall view of the historical context of women's sports within an athletics department at a college or university must be considered and should be given credence and credit with regard to meeting the historical expansion provisions which would demonstrate Title IX compliance. Any other interpretation would require colleges and universities to rely only on the safe harbor to demonstrate Title IX compliance in its athletic programs.

Such is a particularly difficult and illogical conclusion in times of economic hardship or difficulty. However, allowing the entire historical consideration of the program to be reviewed, would be consistent and congruent with the provisions of the Amateur

Sports Act requiring NGBs to utilize their efforts to develop interest and participation throughout the United States and be responsible to the persons in amateur sports organizations that they represent. Likewise, review of the entire history of the sports program would preclude the result of the First Circuit's opinion which ultimately mandates that Title IX be a quota statute rather than an anti-discrimination statute.

The First Circuit's interpretation of Title IX, and its rejection of Brown University's argument with regard to the full and effective accommodation of the interests of the men and women participating in sports programs, also eliminates the ability to rely on this provision of the Title IX regulations to determine Title IX compliance. The First Circuit's interpretation suggests that if a single woman believes that she would like to participate in a sports program, regardless of whether there is sufficient interest to field a team, that woman's interest must be met in order to demonstrate Title IX compliance that a college or university has "fully and effectively accommodated" the interests of the under-represented sex.

Such is inconsistent with the provisions of the Amateur Sports Act requiring the NGBs to obtain for the United States the most competent amateur representation possible. Effectively, the First Circuit's interpretation of this prong of the Title IX analysis could require a college or university to have 75% women participation in athletic programs if 75% of the women enrolled desired to participate in a sports program in order to fully and effectively accommodate the interest of women at a college or university. Thus, men's programs could or would be thrown substantially out of proportion with the enrollment of men at a college or university to meet the third prong of Title IX as currently interpreted by the First Circuit. This interpretation requires all colleges and universities to rely only on the safe harbor, rather than proportionality in fully and effectively accommodating the interests of the students to the same level, *i.e.*, meeting the needs and desires of the male athletes to the same percentage as meeting the needs and desires of the female athletes.

Again, the First Circuit's opinion effectively requires that, in order to be in compliance with Title IX if a college or university is going to have an athletics programs, the college or university must have proportional participation by men and women as compared to the ratios in the student body. Such a conclusion should not and cannot be the effect of Title IX. If a college or university has a population of men and women that is roughly equivalent but 75% of the men wish to participate in athletics while only 25% of the women wish to participate in athletics, that college or university should not be forced to develop a program which has a 50% male 50% female participation in athletics when such is not reflective of the interests of the student body as a whole. The First Circuit's decision in this matter would, however, under the described scenario, require that a college or university have a 50/50 representation of men and women in its athletics programs in order to be in compliance with Title IX.

The First Circuit's interpretation of Title IX, requiring colleges and universities to meet the safe harbor, interferes with and effectively eliminates the abilities of NGBs, including USA Wrestling, U.S. Swimming and U.S. Water Polo, from fulfilling their duties and obligations under the Amateur Sports Act. These NGBs may not be able to rely upon and utilize college and university programs to identify potential elite athletes. Absent unlimited resources, the First Circuit's decision likely mandates the elimination of various sports programs in order to come into compliance with Title IX. Thus, the First Circuit's interpretation of Title IX creates a conflict with the NGB's duties and responsibilities as identified in the Amateur Sports Act.

Title IX should be utilized to establish gender equity within college and university athletic programs. It should not be utilized to create quotas nor should it mandate the manner by which a college or university operates its athletics programs. Athletics programs involve competition. Athletics programs do not involve simple statistical comparisons. Different people have different interests and desire different levels of participation in athletic competition. To impose a

statistical comparison would have an adverse impact on all athletics programs at all colleges and universities, as those persons who have a true desire to participate in athletic competition (in the case of the NGBs, those athletes who may be the most competent amateur athletes in the sport and be potential candidates for selection to participate in the Olympic Games or other protected competitions) could be subordinated to those who have merely a passing fancy with regard to such participation.

If a college or university can show that its historical practice since the implementation of Title IX has been to benefit the under-represented gender's athletic program, that college or university should be found in compliance with Title IX. Likewise, if a college or university can demonstrate that it is fully and effectively accommodating the interests of the under-represented gender in comparison to its accommodation of the predominantly represented gender, then again the college or university should be deemed in compliance with Title IX. However, the First Circuit's decision has eliminated the ability of a college or university to demonstrate such compliance and has created a statutory scheme which provides only for safe harbor protection with regard to athletics programs *i.e.*, the athletics programs must mirror or effectively mirror proportionality between men and women in the student body.

CONCLUSION

For the reasons stated in Brown University's petition for writ of certiorari as well as the reasons stated above, this Court should review the First Circuit's decision, as it is contrary to the purpose and intent of federal laws that have been passed in this country to remedy discrimination mandating quotas for athletics programs and it appears to create a conflict between two federal statutes.

Respectfully submitted,

CHRISTOPHER CIPOLETTI
Counsel for Amici Curiae USA Wrestling, Inc., United States Swimming, Inc. and United States Water Polo, Inc.
HOLME ROBERTS & OWEN LLP
90 South Cascade Avenue, Suite 1300
Colorado Springs, CO 80903
(719) 473-3800

Holme Roberts & Owen LLP

VIA FACSIMILE 401/421-0132

March 18, 1997

Lynette Labinger
Roney & Labinger
344 Wickenden Street
Providence, RI 02903

Re: *Brown University v. Cohen*
Supreme Court No. 96-1321

Christopher Cipoletti
cipole@hro.com

Attorneys at Law

90 S. Cascade Ave.
Suite 1300
Colorado Springs,
Colorado
80903
Tel (719) 381-6400
Fax (719) 633-1518
www.hro.com

Colorado Springs
Denver
Salt Lake City
Boulder
London
Moscow

Dear Ms. Labinger:

Please confirm through your signature below that you consent on behalf of your clients to the filing of an amicus brief on behalf of USA Wrestling, United States Water Polo and related national governing bodies in support of Brown University's petition for certiorari. Please return a copy of this letter by fax with your original signature returned by United States Mail. Thank you for your prompt response.

Very truly yours,

CHRISTOPHER CIPOLETTI

CC:tls

Lynette Labinger
Date 3/18/97

440746

BEST AVAILABLE COPY

PAUL R. WATKINS (1899-1973)
DANA LATHAM (1898-1974)

CHICAGO OFFICE
SEARS TOWER, SUITE 5800
CHICAGO, ILLINOIS 60606
TELEPHONE (312) 876-7700
FAX (312) 993-9767

LONDON OFFICE
ONE ANGEL COURT
LONDON EC2R 7HJ ENGLAND
TELEPHONE + 44-171-374 4444
FAX + 44-171-374 4460

LOS ANGELES OFFICE
633 WEST FIFTH STREET, SUITE 4000
LOS ANGELES, CALIFORNIA 90071-2007
TELEPHONE (213) 485-1234
FAX (213) 891-8763

MOSCOW OFFICE
52/4 LENINSKY PROSPECT, SUITE C200
MOSCOW, RUSSIA 117198
TELEPHONE + 7-503 956-5555
FAX + 7-503 956-5556

LATHAM & WATKINS
ATTORNEYS AT LAW
1001 PENNSYLVANIA AVE., N.W.
SUITE 1300
WASHINGTON, D.C. 20004-2505
TELEPHONE (202) 637-2200
FAX (202) 637-2201

NEW JERSEY OFFICE
ONE NEWARK CENTER
NEWARK, NEW JERSEY 07101-3174
TELEPHONE (201) 639-1234
FAX (201) 639-7298

NEW YORK OFFICE
885 THIRD AVENUE, SUITE 1000
NEW YORK, NEW YORK 10022-4802
TELEPHONE (212) 906-1200
FAX (212) 751-4864

ORANGE COUNTY OFFICE
650 TOWN CENTER DRIVE, SUITE 2000
COSTA MESA, CALIFORNIA 92626-1925
TELEPHONE (714) 540-1235
FAX (714) 755-8290

SAN DIEGO OFFICE
701 "B" STREET, SUITE 2100
SAN DIEGO, CALIFORNIA 92101-8197
TELEPHONE (619) 236-1234
FAX (619) 696-7419

SAN FRANCISCO OFFICE
505 MONTGOMERY STREET, SUITE 1900
SAN FRANCISCO, CALIFORNIA 94111-2562
TELEPHONE (415) 391-0600
FAX (415) 395-8095

March 19, 1997

BY FEDERAL EXPRESS

Christopher Cipoletti, Esq.
Holme Roberts & Owen, L.L.P.
90 South Cascade Avenue
Colorado Springs, CO 80903

Re: Brown University v. Cohen, No. 96-1321

Dear Mr. Cipoletti:

This letter will confirm that petitioners in the above-referenced action consent to the filing of an amicus brief on behalf of the United States Wrestling Association.

Very truly yours,

Maureen E. Mahoney
of LATHAM & WATKINS

No. 96-1321

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1996

BROWN UNIVERSITY, *et al.*,
Petitioners,

v.

AMY COHEN, *et al.*,
Respondents.

CERTIFICATE OF SERVICE

I, Christopher Cipoletti, a member of the Bar of this Court, hereby certify that on this 21st day of March, 1997, the original and 40 copies of the AMICI CURIAE IN SUPPORT OF BROWN UNIVERSITY'S PETITION FOR A WRIT OF CERTIORARI in the above-referenced case were mailed by postage prepaid, first-class mail to:

MAUREEN E. MAHONEY
MINH N. VU
LATHAM & WATKINS
1001 PENNSYLVANIA AVENUE., N.W.
SUITE 1300
WASHINGTON, DC 20004

JULIUS C. MICHAELSON
JEFFREY S. MICHAELSON
MICHAELSON, MICHAELSON & ZURIER
321 SOUTH MAIN STREET
PROVIDENCE, RI 02903

BEVERLY LEDBETTER
BROWN UNIVERSITY
ONE PROSPECT STREET
101 UNIVERSITY HALL
PROVIDENCE, RI 02912

ARTHUR H. BRYANT
TRIAL LAWYERS FOR PUBLIC JUSTICE
1717 MASSACHUSETTS AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20036

LYNETTE LABINGER
RONEY & LABINGER
344 WICKENDEN STREET
PROVIDENCE, RI 02903

I further certify that all parties required to be served have been served.

CHRISTOPHER CIPOLETTI
HOLME ROBERTS & OWEN LLP
90 South Cascade Avenue, Suite 1300
Colorado Springs, CO 80903
(719) 473-3800

#40941